



# Civil Resolution Tribunal

Date Issued: July 22, 2022

File: SC-2022-001353

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Paradise Shades and Blinds Ltd. v. Russell*, 2022 BCCRT 835

**BETWEEN:**

PARADISE SHADES AND BLINDS LTD.

**APPLICANT**

**AND:**

SANDRA RUSSELL

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Acting Chair and Vice Chair

## **INTRODUCTION**

1. This dispute is about payment for custom blinds. The applicant, Paradise Shades and Blinds Ltd. (Paradise), says the respondent customer, Sandra Russell, has failed to pay an invoice balance of \$2,851.33. Paradise claims the \$2,851.33.
2. As discussed below, Ms. Russell says Paradise agreed to discount its total price to \$9,907, without any changes to the style of blinds. Paradise says to achieve a price under \$10,000, Ms. Russell made different selections than she initially wanted.
3. Paradise is represented by its owner, Therise Coldwell. Ms. Russell is self-represented.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
5. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, the parties in this dispute call into question each other's credibility. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT's

mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

6. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUES**

8. The issues are what type of blinds were agreed to for Ms. Russell's order and whether Paradise is entitled to the claimed \$2,851.33.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, as the applicant Paradise must prove its claim on a balance of probabilities (meaning "more likely than not"). I have read Paradise's submitted documentary evidence and the parties' arguments but refer only to what I find relevant to provide context for my decision.
10. Ms. Russell submitted no documentary evidence and her submission says only that she relies on her earlier correspondence. So, I have considered her Dispute Response filed at the outset of this proceeding along with Paradise's evidence and submissions.
11. As discussed below, Ms. Russell says Paradise failed to provide all 9 blinds with a top-down/bottom-up (TDBU) feature, and only delivered 2 with TDBU. Ms. Russell also says Paradise mismeasured 3 small blinds and when it replaced it with 1 large blind, the blind arrived in the wrong colour with small pleats when she says she was clear she only wanted large pleats.

12. Paradise's written quote itemized 9 cellular blinds, all Hunter Douglas Duette "LiteRise" except for one door blind that was a "Vertiglide". The quote clearly specified that only 2 blinds (in the bedrooms) were TDBU. The 1-page typed quote in evidence shows there was a \$2,309 discount and a total \$9,907.80 "client price". In addition, there is a handwritten annotation that Ms. Russell paid a \$7,056.47 deposit on June 8, 2021, leaving the claimed \$2,851.33 balance. The quote is unsigned but on it there is a handwritten note it was emailed to Ms. Russell on June 11, 2021. The parties arranged installation for August 9, 2021.
13. Paradise's June 11, 2021 email is not in evidence. However, Ms. Russell says she did receive a "document" by email but she could not read it because the printing was too small. Ms. Russell does not say she asked Paradise for an explanation of the document that she says she could not read, so I find she did not. Further, Ms. Russell does not explain why she paid \$7,056.47, which is close to the 75% deposit required in Paradise's terms and conditions page (Terms) that was undisputedly part of its contract although it and the quote were uploaded to the CRT's evidence portal as separate evidence items. Ms. Russell's handwritten signature is on the submitted Terms page, showing she "accepted" the terms on June 8, 2021. June 8 was the date Paradise's salesperson JH attended Ms. Russell's home to review her needs.
14. In a signed statement, JH says on June 8 she reviewed the quote "on the spot" with Ms. Russell, having prepared it initially with "cloned" line items so all blinds were TDBU. JH says that put the quote at over \$11,000 and Ms. Russell asked for it to be under \$10,000. So, JH says she suggested only the bedroom windows have TDBU, given the privacy is most needed there. JH says Ms. Russell agreed, given this brought the quote down below \$10,000. JH says she then went and modified the quote line item by line item.
15. Ms. Russell admits that she said "something" about preferring the quote to be under \$10,000 but says she could have afforded more and that she always wanted all blinds to be TDBU.

16. I find it likely Ms. Russell reviewed the quote and understood only 2 of the blinds she ordered were TDBU. I say this because I find it unlikely Ms. Russell would pay the significant amount of \$7,056.47 without having seen the quote. I also find it unlikely that Ms. Russell would receive a document about her blinds order that she could not read and not take steps to ask for a readable copy. Further, I find having received the emailed “document”, Ms. Russell had an obligation to contact Paradise if it had printing that she found too small to read. I note the copies of the quote and the Terms in evidence have printing that is not particularly small or difficult to read. Finally, I prefer JH’s much more detailed account of her meeting with Ms. Russell, which Ms. Russell does not address.
17. So, I find Ms. Russell is responsible to pay for the blinds, subject only to the issues about the pleats and colour, discussed below.
18. Other than the TDBU issue addressed above, Ms. Russell complained after installation that the 3 blinds in her large living room window were ill-fitting. Ms. Russell says to correct the ill-fitting issue, she reordered blinds and chose 1 large one instead of the 3 smaller ones and these came with small pleats not the large pleats she wanted. Ms. Russell also says the replacement blinds were incorrectly white, not grey. The Terms undisputedly say custom blinds are non-returnable and non-refundable.
19. JH explains in her statement that she agreed to replace the large living room blinds for a better fit, and that the reason there were initially 3 not 1 was that Ms. Russell’s chosen fabric was not available in the larger width. JH explains that because Ms. Russell insisted at the time of reordering that she have TDBU for the 1 large blind, she chose an “Applause” fabric instead of Duette, as it would be cheaper. JH explains that Ms. Russell also chose a greyish white colour (“Frostline”), as Ms. Russell felt a contrast would be better than more closely matching the grey blinds in the dining room. JH further says Ms. Russell handled all of the fabric samples, and that the one she chose clearly indicated the pleats were smaller (3/4” instead of 1.25”) and that the pleat size is obvious in the sample. JH says Ms. Russell was

somewhat unhappy with the different pleat size but that Ms. Russell said she felt it would not be terribly noticeable. JH further advised because of the smaller pleat she could do 1 large blind rather than 3 smaller ones.

20. Again, I prefer JH's more detailed evidence. While Ms. Russell says she picked out a grey that "matched perfectly", she provided no further details. Ms. Russell did not address handling the samples. I also find JH's explanation of the pleats and change to 1 blind rather than 3 more consistent with the overall evidence. I note that Paradise ultimately did not charge Ms. Russell for anything above the original agreed upon quote. I find it likely that Ms. Russell chose the Frostline colour and smaller pleat but was dissatisfied with their appearance when she saw them installed. I find that dissatisfaction is not Paradise's responsibility.
21. Paradise's October 28, 2021 brief invoice describes "supply & install" of 9 Hunter Douglas cellular blinds. The total price and invoice balance is the same as described above. As noted above, Paradise did not ultimately charge Ms. Russell for the switch from 3 blinds to 1, given the substituted Applause fabric.
22. So, given the above, I find Ms. Russell must pay Paradise the claimed \$2,851.33.
23. Since Paradise expressly says it does not claim interest, I make no order for interest.
24. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As Paradise was successful, I find it is entitled to reimbursement of \$125 in paid CRT fees. No dispute-related expenses were claimed.

## **ORDERS**

25. Within 30 days of this decision, I order Ms. Russell to pay Paradise a total of \$2,976.33, broken down as follows:
  - a. \$2,851.33 in debt, and

b. \$125 in CRT fees.

26. Paradise is entitled to post-judgment interest, as applicable.

27. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Shelley Lopez, Acting Chair and Vice Chair